

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

October 15, 2013 at 9:31 A.M.

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1. [13-29705](#)-B-7 HUDSON/ELIZABETH MOE MOTION FOR RELIEF FROM  
MDE-1 AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
9-4-13 [[18](#)]

DEUTSCHE BANK NATIONAL TRUST  
COMPANY VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. §§ 362 (d) (1) and (d) (2) in order to permit the movant to foreclose on the real property located at 969 South Weed Boulevard, Weed, CA 96094 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a) (3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make twelve (12) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtors have filed a statement of intent to surrender the Property.

The court will issue a minute order.

2. [13-29008](#)-B-7 BRUCE IRWIN MOTION FOR RELIEF FROM  
RMD-1 AUTOMATIC STAY  
9-4-13 [[19](#)]

OCWEN LOAN SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362 (d) (1) and (d) (2) in order to permit the movant to foreclose on the real property located at 19823 North 17<sup>th</sup> Lane, Phoenix, AZ 85027 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R.

Bankr. P. 4001(a)(3) is waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make seven (7) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution. The debtor has filed a statement of intent to surrender the Property.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

3. [12-38918](#)-B-7 JAMES/SARAH FERRUCCI MOTION FOR RELIEF FROM  
MBB-1 AUTOMATIC STAY  
9-13-13 [[26](#)]  
BANK OF AMERICA, N.A. VS.

**Tentative Ruling:** The court issues the following abbreviated tentative ruling.

The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral consisting of a 2006 Mercedes-B CLS500 (VIN WDDDJ75X56A064699) (the "Collateral"), at 12:01 a.m. on November 25, 2012, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

The debtors did not file a compliant statement of intention with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2). A statement of intention that merely states that the debtors intend to retain the Collateral and "continue to pay as agreed" is not a compliant statement of intention. 11 U.S.C. § 362(h)(1)(A).

The court will issue a minute order.

4. [13-28744](#)-B-7 THEODORE NOVAK MOTION FOR RELIEF FROM  
KRO-1 AUTOMATIC STAY  
9-13-13 [[18](#)]  
FAIR OAKS PLACE, LLC VS.

**Tentative Ruling:** The court issues the following abbreviated tentative ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) in order to permit the movant to foreclose on the non-residential real property located at 5925 Fair Oaks Boulevard Suites 5, 6, and 7, Carmichael, CA 95608 ("Property") and to obtain possession of the Property, all in

accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to remit rent payments on this month-to-month lease since June 2013. The chapter 7 trustee has filed a report of no distribution and a statement of non-opposition to the motion that shows that she does not intend to assume the lease.

The court will issue a minute order.

5. [13-28750](#)-B-7 ABIGAIL STORY  
MRG-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
9-12-13 [[14](#)]

CAPITAL ONE AUTO FINANCE VS.

**Tentative Ruling:** The court issues the following abbreviated tentative ruling.

The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral, a 2006 Mazda 3 (VIN JM1BK324761497748) (the "Collateral"), at 12:01 a.m. on September 7, 2013, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

There is no evidence that the debtor performed her stated intention (surrender) with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2)(B).

The court will issue a minute order.

6. [13-29150](#)-B-7 DENNIS PERES  
RCO-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
9-11-13 [[18](#)]

GREEN TREE SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 6933 Black Duck Way, Sacramento, CA 95842 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make fifteen

(15) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

7. [13-30663](#)-B-7      STEPHANIE PARKER      MOTION FOR RELIEF FROM  
SW-1      AUTOMATIC STAY  
9-20-13 [[22](#)]  
WELLS FARGO BANK, N.A. VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

8. [13-30266](#)-B-7      VIRGINIA FELIX      MOTION FOR RELIEF FROM  
CJO-1      AUTOMATIC STAY  
9-19-13 [[23](#)]  
JAMES B. NUTTER & COMPANY  
MORTGAGE BROKERS VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

9. [13-28968](#)-B-7      HELEN GRACE KATO      MOTION FOR RELIEF FROM  
APN-1      AUTOMATIC STAY  
9-5-13 [[15](#)]  
INFINITI FINANCIAL SERVICES  
VS.

**Tentative Ruling:** The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral consisting of a 2012 Infiniti G37 (VIN JN1CV6FE8CM201665) (the "Collateral"), at 12:01 a.m. on September 13, 2013, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

There is no evidence that debtor performed her stated intention (surrender) with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2)(B).

The court will issue a minute order.

10. [12-35371](#)-B-7 PAVEL KUZMENKO MOTION FOR RELIEF FROM  
EGS-1 AUTOMATIC STAY  
9-16-13 [[32](#)]  
  
BAYVIEW LOAN SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 9028 Allbritton Way, Elk Grove, California (APN 119-1900-045-0000) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make forty (40) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion.

The court will issue a minute order.

11. [13-31181](#)-B-7 HELEN GAGNI MOTION FOR RELIEF FROM  
HPROF, LLC VS. AUTOMATIC STAY  
CASE DISMISSED 9/13/13 AND 9-4-13 [[14](#)]  
CLOSED 10/1/13

**Tentative Ruling:** The motion is dismissed as moot. The bankruptcy case was dismissed by order entered September 13, 2013 (Dkt. 18). The movant already has the relief it seeks by the motion.

The court will issue a minute order.